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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/560,199 | 12/08/2005 | John A. Gelardi | CPG 03-12 MB | 5532 |

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PARKS KNOWLTON LLC
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ATLANTA, GA 30338

EXAMINER

ALIE, GHASSEM

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| ART UNIT | PAPER NUMBER |
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3724

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| MAIL DATE | DELIVERY MODE |
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01/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/560,199 | Applicant(s) GELARDI, JOHN A. | |
| | Examiner Ghassem Alie | Art Unit 3724 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/08/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-5, and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/08/05</u> | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: “24” in not in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: the first sentence of the specification does not include a reference to PCT/US04/18257 which claims benefits of the provisional application 60/447,485. Appropriate correction is required.

Claim Objections

3. Claim 1 is objected to because of the following informalities: in claim 1, lines 14; “as it is inserted into and translated along said channel” should be --as said seal portion is inserted into and translated along said channel--.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Weinstein (5,356,010). Regarding claim 7, Weinstein teaches substantially the claimed invention including the steps of providing a combination container 1 and seal cutting apparatus 2, 6; inserting a plurality of articles 26, 27 into the container, wherein the articles are encased within individual protective seals 25; distributing the container with articles and seal cutting apparatus to an end-user removing a first article from the container; inserting at least a portion of the first articles' protective seal 25 into the seal cutting apparatus; operating the seal cutting apparatus to cut the portion of the seal; and retrieving the article 26 from the protective seal wherein the cutting apparatus is fastened to the container. It should be noted that the cutting apparatus is fixed or secured to the container. Therefore, it is considered to be fastened to the container. See Figs. 1-4 in Weinstein.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Battaglia (5,332,096) in view of Weinstein (5,356,010). Regarding claims 1 and 7, Battaglia teaches substantially the claimed invention including a seal cutting apparatus 18. Battaglia also teaches that the seal cutting apparatus includes a receiving channel 20, 21 defining a first edge spaced apart from a substantially parallel second edge. It should be noted that the first edge is defined by upper wall of the slot 20, 21 and the second edge is defined by the lower wall 19 of the slot 20, 21. Battaglia also teaches a cutting member 25, 26 including a cutting edge 25, and the cutting member 25, 26 is positioned so the cutting edge 62 is configured to cooperatively cut the seal portion as the seal portion is inserted onto and translated along the channel. Battaglia also teaches that the cut seal portion 15 facilitates access to the article. See Figs. 1-8 in Battaglia. Battaglia does not explicitly teach a container configured to store at least one removable article encased within a protective seal and the cutter fastened to the container. However, Weinstein teaches that the use of the seal cutting apparatus 2, 6 in combination with a container 1 for storing removable article encased within a protective seal. Weinstein also teaches that the cutting apparatus is fastened to the container. See Figs. 1-7 in Weinstein. It would have been obvious to a person of ordinary skill in the art to provide Battaglia's cutting apparatus with the container, as taught by Weinstein, in order to store the articles within the container.

Regarding claims 3-5, Battaglia teaches everything noted above including that the first edge defines a slidable abutment structure and the second edge defines a backstop; a seating component 23 which receives and seats the cutting member; and the cutter member is stabilized and bound by a securing member 24. It should be noted that the seating

compartment is defined by gap 23 and the securing means is defined by the gap 24 which helps to stabilize the cutting member.

Allowable Subject Matter

8. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hunts (2003/0029880), George et al. (5,909,822), Jebe et al. (5,014,431), Berner (4,159,568), Weinstein (5,853,101), Leopoldi (4,697,344), Horning, Jr. (5,007,171), and Rric (6,557,945) teach a cutting apparatus and storing device for enclosed articles.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

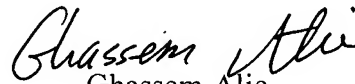
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

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about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ghassem Alie
Patent Examiner
Art Unit 3724

GA

January 3, 2008